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INDIGENOUS ISSUES

Written statement submitted by the Women's International League for Peace and Freedom, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[18 February 1998]

Amendments to the draft declaration on the rights of indigenous peoples (III)*

Chapter III

Cultural and intellectual heritage

Article 12 (Amended version of article 12)

Indigenous peoples have the right and the **moral duty to preserve**, practise and revitalize their **cultural and intellectual heritage in its proper historical setting**.

By virtue of this right, indigenous communities have the authority to protect, uphold and foster the routine expression of their traditions, cultural values and past, present and future artistic creations such as archaeological and historical sites, ceremonies, **works of art and sculpture**, musical instruments, artifacts, designs and scientific knowledge, technological traditions, **visual** arts and literature **of universal value from the historical, aesthetic and anthropological viewpoint**.

Article 13 (Amended version of article 13)

In accordance with recognized human rights standards, indigenous peoples enjoy freedom of thought and conscience, by virtue of which they have a **collective** right to manifest, practise, develop and teach their spiritual traditions, customs and ceremonies and **the right to protect and have access to their holy and religious places, to use and keep** objects of worship, and to secure the repatriation of human remains **and other funerary articles**.

States shall take effective measures, **with the full consent of the peoples concerned**, to ensure and **guarantee respect and protection** for holy **and ritual** places, cemeteries in particular.

Article 14 (Amended version of article 14)

Indigenous peoples have the right to revitalize, use, **promote** and transmit to future generations their own histories, **community values**, philosophies, languages, writing systems and literatures, **and the right to preserve and assign names to their original communities, pay tribute to the memory of their martyrs and respect mythological sites**.

States shall undertake to adopt appropriate policies with a view to guaranteeing effective exercise of indigenous peoples' right to suitable protection of their cultural and intellectual heritage.

["... ensure that [indigenous peoples] can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation ...": as this relates closely to civil and political rights, we recommend its inclusion under Chapter VII.]

Article 15 (New provision)

Under the procedures laid down in international agreements, indigenous peoples have a right to the restitution and restoration of cultural, intellectual, religious and spiritual articles and property, including the remains of their ancestors of which they have been deprived without their full consent and in breach of their conventional laws, traditions and customs, and to fair compensation for irreparable physical and moral damage and injury.

Article 16 (New provision)

Indigenous peoples have a collective right to legal protection of their cultural and intellectual property and their folklore against any illegitimate use by national or international pirates, and against the imitation, deformation or debasement of the traditional indigenous artistic heritage.

Article 17 (New provision)

In conformity with the Model Provisions for National Laws on the Protection of Expressions of Folklore Against Illicit Exploitation and other Prejudicial Actions jointly adopted by UNESCO and WIPO, States recognize the traditional artistic heritage perpetuated by indigenous communities and all artistic works created in indigenous territories by unknown artists and handed down from generation to generation.

The legal protection stipulated in this Declaration shall apply to:

(a) verbal creations such as popular stories and legends, popular poetry and riddles;

(b) musical creations such as songs and popular instrumental music;

(c) physical creations such as folk dances and plays and ritual performances;

(d) tangible creations such as drawings, paintings, sculptures, pottery, woodwork and jewellery;

(e) musical instruments and works of architecture.

Article 18 (Amended version on medicinal plants; replaces article 24)

Indigenous peoples have the right to appropriate protection of plants, animals and minerals with medicinal properties widely used as ancestral remedies in traditional practice and medicine. They shall also have access without discrimination to all medical institutions, health services and medical care.

States are responsible for legally protecting the variability of living organisms used by indigenous peoples against illicit exploitation and use by transnational pharmaceutical corporations.

Article 19 (Amended version of article 29)

Indigenous peoples have a collective right to full recognition of their ownership, control and protection of their cultural and intellectual heritage.

Without prejudice to the provisions of international instruments, they have a right to a fair and equitable share in the proceeds from the exploitation for monetary or other gain of their human and genetic resources, seeds and medicinal plants, and indigenous knowledge of the properties of flora and fauna.

States shall in conformity with their respective legislation adopt environmental programmes and policies to guarantee the legal protection, control and sustainable development of indigenous peoples' scientific knowledge, environmental, genetic and cultural values, traditional technologies and innovations.

Chapter IV

Education and information

Article 20 (Amended version of article 15)

All indigenous peoples have a collective and individual right to free, complete and diversified education at all levels and in all forms of basic, secondary and higher education, in their own languages, including bilingual education. Indigenous peoples shall also have authority over policy formulation in their own educational systems and teaching institutions, and manage and administer the resources allocated to education for themselves.

States recognize education as their highest function and agree to orient teaching in all its forms towards the full flowering of the human personality, making available sufficient resources to carry out and apply the provisions of this Declaration.

Article 21 (New provision)

Indigenous children, including those living outside their communities, shall have free access to education and shall be at liberty to learn to read and write in their own mother tongue in accordance with their cultural traditions, values and methods.

States are under an obligation to provide history books and see to it that teaching materials provide a balanced and fair description of the historical truth about aboriginal civilizations.

Article 22 (New provision)

State education and vocational training programmes must be adapted to suit different social arrangements and help to foster traditional knowledge and technologies in order to secure the participation of indigenous peoples on an equal footing in the political, economic and cultural life of the national community.

Article 23 (Amended version of article 17)

Indigenous peoples have the right to establish their own information media in their own languages. They also have the right of equal access to all **existing** mass media, and the right to **set up radio and television networks in indigenous languages in order to inculcate in indigenous people a respect for their identity and promote bonds of friendship among different groups in society.**

States shall take appropriate steps to ensure that State-owned media duly reflect **multinational and multicultural** diversity.

Article 24 (Amended version of article 18)

Under the international agreements adopted by ILO, indigenous peoples have the right to pursue their physical well-being and spiritual development with dignity. Every indigenous person has the right to work without distinction or discrimination based on his identity, and the right to equal pay for equal work, to satisfactory health conditions and to social security.

States shall, in accordance with their labour legislation, take appropriate steps to guarantee effective protection in matters of hiring and working conditions, particularly legal protection for children against unlawful exploitation that might have harmful consequences for their health, education, and physical and mental development.

Note

* The beginning of this statement appears in documents NGO/31 and 32; it continues in documents NGO/34 and 35.

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